DOCUMENT RESUME

ED 309 480 CS 506 712

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TITLE Ethics and the Exercise of Responsibility among Entrepreneurs in New Ad Agencies.
PUB DATE Aug 89
NOTE 18p.; Paper presented at the Annual Meeting of the Association for Education in Journalism and Mass Communication (72nd, Washington, DC, August 10-13, 1989).
PUB TYPE Speeches/Conference Papers (150) -- Reports - Research/Technical (143)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Advertising; *Business Responsibility; Communication Research; *Entrepreneurship; *Ethics; *Legal Aid; Occupational Surveys; *Small Businesses
IDENTIFIERS *Advertising Agencies; Descriptive Research

ABSTRACT

To seek insight into the ethical and risk-taking orientations of advertising agency entrepreneurs, a study focused on the impact of these orientations on the entrepreneur's practices and perceptions of responsibility surrounding client legal services. Subjects, 152 entrepreneurs at 152 start-up agencies (defined as having six or fewer employees and being less than three years old), participated in a phone interview. Findings included the following: (1) only 11% of the small agency entrepreneurs (SAE) report having a formal code of ethics during their start-up years; (2) 61% of the respondents believed ethical guidelines would be of some value; (3) 36% appeared to be relatively high in risk-taking, 51% describe a comparatively moderate risk-taking profile of themselves, and the rest were clustered as relatively low risk-takers; and (4) in regard to obtaining legal counsel for agency advertisements, 37% keep an attorney on retainer, 30% use an attorney for general operation needs, and the remainder did not use an attorney for such advice. (Two tables of data are included, and 26 references are appended.) (MS)

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Ethics and the Exercise of Responsibility Among Entrepreneurs in New Ad Agencies

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Prepared for the AEJMC 1989 Washington D.C. Convention
Advertising Division
Professional Freedom and Responsibility Program

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ABSTRACT

This study sought insights into the ethical and risk-taking orientations of advertising agency entrepreneurs. Its focus was the impact of these orientations on the entrepreneur's practices and perceptions of responsibility surrounding client legal services. From this study a picture begins to emerge of the agency founder as an entrepreneur for whom ethics, in a formalized sense, is not a top-of-mind priority but who strives to act responsibly in serving client legal needs.

INTRODUCTION

Mega-mergers. Hostile take-overs. International super agencies. The sheer size of this agency activity in terms both of the money and the employees involved has made these the big stories of the decade in the advertising industry. On Main Street, meanwhile, there's also been notable activity among small agencies which, though significant, commands few headlines. There, agency start-ups appear to be fanned by the nation-wide wave of entrepreneurial activity.

Last year, 1988, this activity resulted not only in nearly three-quarter million new corporations but more pertinently in 100,000 new partnerships and 500,000 new individual proprietorships. (Birch, 3) According to Birch this underscores an increasing fragmentation in the business sector where "more and smaller businesses now do what fewer and larger ones did before." Relatedly, Dunn & Bradstreet has begun charting reductions in the size of business start-ups. (Birch, 4) A check of business-to-business directories will show the most casual observer that a modest part of that activity stems from small advertising agency start-ups.

The start-up phase for any entrepreneur devours time, energy, and patience. It's not a period which fosters ethical reflection or the assuming of responsibility for client services other than the most vital ones. Moreover, to be an entrepreneur is to face risks, if not always to take them. This risk-taking dimension adds another layer of complexity for the advertising entrepreneur as he or she strives to attend client needs.

There is one area of client service which is especially sensitive both to inattention regarding ethics and assertive responsibility and to risk-taking -- legal services to clients.

Over a decade ago, for example, industry publications began reporting on the rise in advertising liability insurance costs. One reporter described it as "just part of the heightened awareness of insurance companies that it is no longer far-fetched to anticipate that advertising liability claims may indeed result in 'catastrophic' losses. (Krakowiecki, 11). Loss exposures typically covered on basic advertising liability insurance policies are: copyright infringement, libel, slander, invasion of privacy, plagiarism and piracy. The small agency entrepreneur is not immune to these.

the two poles. An overview of these risk-taking tendencies has been compiled by Viek and Stallen (22).

Too, in a recent study (Pollock and Pollock, 20), entrepreneurs themselves affirmed risk-taking as an integral part of starting and sustaining a new business. Based on 1,272 responses, 72% acknowledged taking risks in their business start-ups. Of those, 44% "like to take some chances," and 28% take "only calculated risks." For slightly less than one-third of the respondents (29%), high risk-taking is desirable since they "like the thrill of going for it all." Only 1% disavowed risk-taking interest or activity. Nearly half of these risk-takers seek information (facts, private resources) before undertaking a risk.

The rarer risk-takers who "go for the thrill of it all" share unique motivations. Zuckerman (26) characterizes them as sensation-seeking and Eysenck and Eysenck (7) as impulsive.

While the decision to take a risk can be made at the group or individual level, for many entrepreneurs the final decision is theirs alone. In writing about group and indivdidual risk-taking, Mellema (17) notes that, for the individual, that which is risked is a state of affairs where something (a consequence) will or will not happen. The risk environment is created by the individual through the performance of an action (which might be the deliberate omission of an action).

In the case of the advertising entrepreneur, risk might be taken by not checking to see if a slogan prepared for a client is already in use. Or an agency might use a currently popular song in a radio or TV spot.

A comparison of personal traits between entrepreneurs and managers of small business firms by Begley and Boyd characterizes entrepreneurs as less formally educated than managers. Too, their competiveness in starting and sustaining their business is more generalized than the focused competition of managers. Begley and Boyd interpret this as possibly resulting from the fact that "entrepreneurs have no direct competitors. Since they aren't competing with others on the job, their benchmarks are internally derived." (2).

Risk taking -- the central, though controversial, hallmark of entrepreneurial activity -- is a double-edged

sword for the entrepreneur. It sparks the initiation of a business but it also sparks problems. It emerges time and again as a crucial aspect of situations which give rise in business to discussions of ethics.

Wortman (24) in developing an integrative typology and evaluation of the developing empirical research on entrepreneurship did not broach the ethics concern. A computer search of the literature subsequent to that article yielded but a few studies dealing with entrepreneurial ethics.

In one of those ethics-oriented studies (Arlow and Ulrich, 1), entrepreneurs report discovering that ethical situations in business, as opposed to ethical situations in general, involve greater complexity. Contributing to this complexity are societal expectations, fair competition, and social responsibility.

An aspect of that complexity is clarified by Vitell and Festerand (23) who found the ethical practices and beliefs of industrial executives to be significantly affected by factors external to the business. Ethical conflict occurred more frequently in relations with those outside the business such as suppliers, competitors, or customers. The advertising entrepreneur confronts this in the form of client, media, and consumer/societal needs -- all of which compete for the entrepreneur's time and often must be dealt with under deadline pressure.

Longenecker, McKinney and Moore's (13, 14) seminal, descriptive works find the entrepreneur to be permissive on issues such as padding expense accounts, insider trading, and the unauthorized copying of computer software.

McCarty (15) contends there is an interdependent balance between ethics and law in the conduct of business. Laws, he acknowledges, typically chart acceptable avenues of behavior and either specify or imply the negative consequences of wrong turns. But to be adequately sensitive to those consequences, he argues, ethics must be honored by the businessperson as more fundamental than law.

A recent examination (Chonko, Hunt, and Howell, 6) explored the impact of American Advertising Federation principles on advertising agency sensitivity to "ethics". It found that agency executives considered their own agency's advertising to be consistently and substantially in

conformity with the AAF guidelines. In contrast however, these executives regarded the work of the advertising industry as a whole to be less ethical, perceiving its adherence to these guidelines as modest.

INFORMATION SEEKING

The information needs of the entrepreneur/small business owner are diverse and continual. He or she -- lacking the experience or staff resources of a more established, larger business -- must serve as a "jack-of-all-trades." Wriston (25), who views entrepreneurs as risk-oriented people, urges them to sustain a perpetual information seeking mode. His rationale is that, since life is a series of accidents, the entrepreneur never knows where information may prove valuable.

That philosophy, in more structured practice, is risk management. Hollman and Mohammad-Zadeh (8) recommend that entrepreneurs and small business owners employ risk management as a preventive strategy to avoid loss situations or to minimize their effects should they occur. Risk management for the small business, just as for large businesses, is a systematic method which depends on acquiring pertinent types of information.

Johnson and Kuchen (10) found the small business owner to be more concerned with the search for external information than their counterparts in large organizations. While those counterparts report spending only about 1/6th of each day in information searching, small business owners spend 1/4th of each day in some type of information search activity. Much of it involves verbal exchanges with various suppliers. Not surprisingly, then, small business owners judge marketplace information to be of higher quality and more understandable than economic, government, and technological information.

One source of information for the entrepreneur -- attorneys -- was the subject of a recent investigation by Ireland, Fowler, and Nord (9). Compared to the population at large which annually ranks lawyers among the least-admired professionals, small business owners perceive them in a largely positive light. Almost 50% of the study participants reported "a great deal of trust" in lawyers while another 30% acknowledged "some trust."

METHOD

OBJECTIVES

The parallel pressure of risks and ethics associated with the entrepreneurial phenomenon is, as the literature attests, little understood in general. Its salience to the advertising agency entrepreneur is almost wholly unknown. For these reasons, a descriptive study was undertaken to assess the new small agency entrepreneur's risk tendencies and perceptions about ethics. These were investigated in relation to the exercise of responsibilities necessary to protect the agency and clients from legal problems. The present paper reports on a portion of the study. Specifically, the research objectives reported here are:

To describe the Small Advertising Entrepreneur [SAE] in terms of an ethics orientation and a risk profile.

To describe the SAE's practices regarding measures for legal protection as well as the SAE's legal-related information seeking behaviors.

To determine if there are any differences in the SAE's practices as a function of his or her perception of ethics.

SAMPLE

The population for the study was specified to be founders of small advertising agencies (six or fewer employees) which have been in operation no more than three years. As might be imagined, this population is not readily identified, and the resulting sample may be somewhat haphazard. Initially, use of the Standard Directory of Advertising Agencies ("The Red Book" of the industry) was the strategy. While this identified some members of the study population, it was evident that many were not listed, and that some listings were not sufficiently detailed to be useful. Thus, members of the population were also identfied through various city bureaus for small business development. Personal informants in various parts of the country further supplemented the population list. Attempts were made to contact all 217 agencies identified in this process. Of these, 34 were disqualified as having been established for more than three years and/or having more than six employees. Of the remaining 183, interviews were completed with entrepreneurs at 152 start-up agencies; 31 agencies could not

be reached (some having apparently closed their business), or declined to participate.

PROCEDURES

Agency founders were contacted by phone and invited to participate in a study about practices and problems experienced by the small agency entrepreneur. An "appointment" for a phone interview was scheduled with founders agreeing to participate. If the interview was scheduled more than four days after the initial contact call, a reminder letter was sent to the founder.

Administration of the instrument lasted an average of 21 minutes. Included on the instrument were items measuring ethical orientation as well as practices regarding the use of attorneys. Other questions dealt with agency approval procedures and practices regarding tactics to protect client and agency interests associated with agency-produced ads. A risk-profile was created through a core of items modeled on Torrence and Ziller's (21) instrument to identify risk-taking tendencies. The focus of their instrument on common life experiences as they relate to risk tendencies allows it to be bias-resistant to socialization factors such as race, parental income, or education. Risk takers self-identify, for example, as those who tried tobacco or alcohol at an earlier age than low risk-takers, or who took more dares.

The task of editing and coding open-ended questions was handled by two persons not associated with the study. Intercoder reliability was .84.

RESULTS

Orientation to Ethics

Only 11% (all percentages are rounded to whole figures; sets of percentages may sum to more than 100% due to rounding) of the small agency entrepreneurs (SAE) report having a formal code of ethics during their start-up years. These codes are invariably from agencies where these 17 entrepreneurs previously worked. All other participants indicated that they are aware of such codes as the AAF ethics code, but have not formally adopted any. Ninety-six respondents (71% of those without codes, or 63% of the sample), explain that they haven't the time either to develop a code or, if they had one, to refer to it; they feel they can trust their own innate sense of what is or isn't

responsible. For the remaining 39 respondents, not instituting a code appears to be less an issue of available time, than one of perceived need. They note that there are enough formal regulations to keep them honest.

Despite the low profile of ethics codes in small start-up agencies, 61% of the respondents believe ethical guidelines would be of some value. Although only 5% consider such guidelines "essential" to their operations, over half of the respondents (56%) feel guidelines would be "helpful." Of the 39% who regard ethics guidelines as "not a help," several offer such comments as "It's not among the pertinent things needed to get an agency running," or that "It's a luxury."

Risk Profile

Scores on our shortened Torrence and Ziller risk-taking scale seemed to group into three clusters. Slightly more than a third of the entrepreneurs (36%) appeared to be relatively high in risk-taking. The majority (51%) describe a comparatively moderate risk-taking profile of themselves with the remaining 14% clustering as relatively low risk-takers. None of these 21 low risk-takers were among those who considered a code of ethics as "not a help" during their start-up; nor did any high or moderate risk takers regard codes as "essential." Among the low risk takers, seven term ethics codes "essential" while the remaining 14 feel they're "helpful." Approximately four-fifths of moderate risk-takers, but only 17% of high risk-takers, think codes could be "helpful." Of course, these proportions were reversed in these two groups with respect to the "not helpful" response category. The difference between these two groups is significant; the base for low risk-takers is too small to permit meaningful statistical testing.

Responsibility: Practices and Procedures

Entrepreneurs report two different practices for obtaining legal counsel for agency advertisements. An attorney on retainer with expertise in advertising or communication law is the tactic of 37% of the respondents, while 30% use the attorney who handles their general operational needs. The remainder of the sample reported not using an attorney for such advice; 27% said they turned to an agency staff member for guidance, while 6% reported no arrangements at all.

Agency entrepreneurs who consult attorneys do so for a variety of reasons. See Table 1. The leading reasons for consultation are to review work for possible copyright infringement (27%) and for adequacy of proof of claims (26%).

The entrepreneurs were asked who (by job title) in their agency had primary responsibility for reviewing the agency's ads with an eye to potential legal problems. Over two-fifths of the agencies (44%) report that no one at their agency has that responsibility. An almost equal proportion (42%) of the entrepreneurs say the responsibility is their own personally. The remaining 14% report that responsibility for this kind of review generally rests which various individuals, such as Creative Directors, copywriters, or Account Executives.

Only a modest effort is made by entrepreneurs to acquire information on advertising related legal matters. Almost three-fourths (74%) did not attend conferences or workshops during their start-up phase at which up-dating or discussion of legal concerns were included. The remaining participants who did attend such a conference, primarily attended AAF sponsored programs (18% of the sample) with the remainder going to programs offered by Advertising Age (4%) or by local ad or public relations clubs or universities (3%).

Articles dealing with advertising legal issues are sought out by 31% of the entrepreneurs, while 68% say that they do not explicitly engage in this type of information search. The sources for those who do search include Advertising Age, (33 of these 48 participants), Ad Week and AAF publications (each mentioned by 13 respondents), industry (client) publications (2 mentions), and AAAA publications (4 mentions). (Multiple responses were possible.)

The agency entrepreneurs were asked to rate their degree of agreement with five statements about the appropriate locus of responsibility for handling legal questions, and about their agency's preparedness to assume responsibility. A five-point scale was used, on which "1" represented strongly disagree and "5" represented "strongly agree." The mean response given by the sample to each of these statements is summarized in Table 2. A significant difference was observed on four of the five statements in mean response between participants who felt ethics codes were helpful and those who did not; these are marked with an asterisk in the table.

As the mean of 4.32 suggests, virtually all agree a client has the right to expect his or her agency to know how to provide legal protection for their work (strongly agree = 49%; agree = 42%). Despite this generally strong response, participants who felt ethics codes were not helpful agreed to

a signifcantly greater extent with the statement than did those who felt they were helpful.

While more than half the entrepreneurs agree (strongly agree = 31%, agree = 29%) clients have a responsibility to have their own attorneys review agency work, a substantial number disagree with that locus of responsibility (18% strongly disagree, 22% disagree). A mean response of 3.32 reflects divided opinions regarding this practice. Those who felt ethics codes are helpful gave signifcantly higher agreement.

Respondents reject (mean = 1.85) the notion that "largely none of us at the agency knows a great deal about legal matters." Strong disagreement was registered by 36% with another 51% disagreeing. Those who felt that ethics codes are not helpful were in significantly greater disagreement.

The participants also tend to disagree (mean = 2.00) that they have inadequate time for legal matters; all but 18% of the respondents disagree, or strongly disagree. Most of those who agree, however, do not feel ethics codes are helpful -- resulting in the fourth signifcant difference.

Finally, with a mean of 3.34, participants were once again somewhat divided on whether they should know more about advertising law. Over half of the sample agree they should know more (18% strongly agree, 38% agree). Yet, over one-fourth disagreed with this idea (13% strongly disagree, 14% disagree).

Summary

This study sought insights into the ethical and risk-taking orientations of advertising agency entrepreneurs. Its focus was the impact of these orientations on the entrepreneur's practices and perceptions of responsibility surrounding client legal services. From this study a picture begins to emerge of the agency founder as an entrepreneur for whom ethics, in a formalized sense, is not a top-of-mind priority but who strives to act responsibly in serving client legal needs.

Codes of ethics are not tucked in the entrepreneur's start-up "kit." Since most appear to be risk-takers (51% moderate and 36% high), this might be expected. Only among

low-risk takers do formalized codes seem integral to start-up planning. Nonetheless, while the majority (89%) open their agency doors without codes, over half (61%) share the sense that codes would be valuable during the start-up years. The difference of opinion between high and moderate risk takers here is significant, however.

Entrepreneurs agree almost uniformly that clients are justified in expecting a start-up agency to know how to provide legal protection for their work. Moreover, nearly half feel clients should not be expected to share that responsibility by having their own attorneys review work. It's noteworthy that the entrepreneurs' orientation to ethics significantly affects views on this practice; shared responsibility is endorsed by those who regard ethics codes as helpful during the start-up phase.

The manner in which some agency entrepreneurs exercise their responsibility may be disquieting to clients. While two-thirds consult attorneys in an effort to off-set legal problems, fully one-third do not. Rather, they tend to rely on advice from within their agency. However, within the agency, nearly half the entrepreneurs seem lacking an organizational structure which assures some form of internal review of ads. Those claiming a procedure for internal review largely report handling it themselves, though few appear likely to have had appropriate legal training. This seems inconsistent with the entrepreneurs' strong disagreement with the statement that "largely none of us at the agency know a great deal about legal matters."

The start-up phase is not a time when entrepreneurs actively seek information which does not bear on immediate needs. Entrepreneurs make scant effort to seek out legal or ethical information either in publications or workshops. This is consistent with their sense that they have adequate time for legal matters when a distinction between time for pressing matters and time for generalized learning is entertained.

These findings, while suggestive of the interplay of entrepreneurs' regard for ethical guides, risk-taking tendencies, and protective practices, lack generalizability. They're based on a sample which is small, non-probablistic, and somewhat haphazard.

Discussion

Undeniably, the start-up phase of a business is unique for any entrepreneur. Perhaps its uniqueness champions something of an altered state of mind. As these agency entrepreneurs speak of their regard for ethical guides or of their orientation to risk taking, there's a sense that perhaps they are caught up in the mystique of being an entrepreneur -- someone who must be a risk-taker, must be confident, must be independent. Although they acknowledge responsil lity and report responsibile protective practices, they may overestimate their preparation to exercise these entrepreneurial role characteristics and thereby court problems for themselves and their clients.

Future research would serve our understanding well if it replicated the questions studied here while controlling for a possible "role-playing" phenomenon. Or, it might investigate the possibility of such a phenomenon as a factor which affects the advertising agency entrepreneur's ethical perceptions and practices.

While many of these agency entrepreneurs speak to the value of ethical guides, it's obvious few have made an effort to equip themselves with a set. Industry guides are readily available or guides could quickly be drafted by the entrepreneur. What contributes to this discrepancy between avowed value and behavior is another fertile area for future research.

TABLE 1
Purpose of Consultation With Attorney

Copyright infringement	27.0%
Adequacy of proof of claims	26.7%
Legality of wording/puffery	13.5%
Lending laws	13.5%
Protection status of slogans	8.9%
Contractual requirement between franchisee and franchisor	4.6%
Use of disclaimers	4.6%
Election laws	4.6%
Promotion/lottery	4.3%
Public domain person	2.0%

TABLE 2
Perceptions About Locus of Responsibillity
And Agency Ability to Handle Legal Questions

Statement	Mean Response
A client has the right to expect his or her agency to know how to provide legal protection for ads.	4.32*
Clients have a responsibility to have their own attorneys review the ads we produce.	3.32*
Largely, none of us at the agency knows a great deal about legal matters affecting advertising.	1.85*
I don't have adequate time to attend to all the legal questions.	2.00*
I sometimes feel I should know more advertising legalities to make sure I don't do something I shouldn't.	3.34

*Mean varies significantly between respondents for whom ethics code are "not helpful" and respondents for whom they are "helpful." See text.

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